

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

PAULA A. NORRIS-GREGO,

CASE NO. 11-CV-2842 W (NLS)

Plaintiff,

ORDER ADOPTING REPORT  
AND RECOMMENDATION  
[DOC. 27] AND GRANTING  
DEFENDANT'S MOTION TO  
DISMISS [DOC. 9]

MICHAEL J. ASTRUE,  
Commissioner of the Social Security  
Administration,

Defendant.

On December 6, 2011, Plaintiff Paula A. Norris-Greco filed this lawsuit seeking judicial review of her second application for disability benefits under Title II of the Social Security Act. (*Compl.* [Doc. 1].) The matter was referred to the Honorable Nita L. Stormes, United States Magistrate Judge, for a report and recommendation under 28 U.S.C. § 636(b)(1)(B) and L.R. 72.1.

Thereafter, the Defendant filed a motion to dismiss on the grounds that this Court does not have subject-matter jurisdiction. (MTD [Doc. 9] 3-5.) On April 2, 2012, Judge Stormes recommended that Defendant's motion be granted and that this

1 action be dismissed for lack of subject-matter jurisdiction. (*Previous Report* [Doc. 15].)  
 2 On May 17, 2012 this Court rejected Judge Stormes' recommendation and remanded  
 3 the matter to Judge Stormes for another report and recommendation regarding whether  
 4 Plaintiff's "first and second applications assert the 'same claim' for administrative *res*  
 5 *judicata* purposes." (*Order* [Doc. 18] 5-6.)

6 On December 5, 2012, Judge Stormes issued a second Report and  
 7 Recommendation ("Report"), again recommending that the Court grant Defendant's  
 8 motion to dismiss. (*Report*, [Doc. 27] 1.) The Report also ordered that any objections  
 9 were to be filed by December 31, 2012, and any reply filed by January 4, 2012. (*Id.* at  
 10 7.) To date, no objection has been filed, nor has there been a request for additional  
 11 time in which to file an objection.

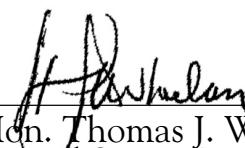
12 A district court's duties concerning a magistrate judge's report and  
 13 recommendation and a respondent's objections thereto are set forth in Rule 72(b) of  
 14 the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections  
 15 are filed, the district court is not required to review the magistrate judge's report and  
 16 recommendation. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir.  
 17 2003) (holding that 28 U.S.C. 636(b)(1)(c) "makes it clear that the district judge must  
 18 review the magistrate judge's findings and recommendations *de novo if objection is made,*  
 19 *but not otherwise*") (emphasis in original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219,  
 20 1226 (D. Arizona 2003) (concluding that where no objections were filed, the District  
 21 Court had no obligation to review the magistrate judge's Report). This rule of law is  
 22 well established within the Ninth Circuit and this district. See Wang v. Masaitis, 416  
 23 F.3d 992, 1000 n. 13 (9th Cir. 2005) ("Of course, *de novo* review of a R & R is *only*  
 24 required when an objection is made to the R & R.") (emphasis added) (citing Reyna-  
 25 Tapia, 328 F.3d 1121); Nelson v. Giurbino, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005)  
 26 (Lorenz, J.) (adopted Report without review because neither party filed objections to  
 27 the Report despite the opportunity to do so, "accordingly, the Court will adopt the  
 28

1 Report and Recommendation in its entirety."); see also Nichols v. Logan, 355 F. Supp.  
2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

3 The Court, therefore, accepts Judge Stormes' recommendation, and **ADOPTS**  
4 the Report in its entirety. For the reasons stated in the Report, which is incorporated  
5 herein by reference, the Court **GRANTS** Defendant's motion to dismiss for lack of  
6 subject-matter jurisdiction. [Doc. 9]. The Clerk of the Court shall close the district  
7 court case file.

8 **IT IS SO ORDERED.**

9  
10 DATED: February 25, 2013

11   
12 Hon. Thomas J. Whelan  
13 United States District Judge

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28